

## **REMARKS**

In this amendment, claim 1 has been amended and all other claims have been canceled.

Amended claim 1, the only currently pending claim, recites:

1. A computer-implemented method of facilitating the monetization of an original power contract between an original power supply entity and a power distributor, wherein the original power contract is for supplying specified electricity deliveries, from a specified power facility, over a specified time period at a specified price per quantity of energy, and supplying a specified energy capacity, comprising:

establishing a special purpose vehicle (SPV) for providing electricity and energy capacity to the power distributor, pursuant to a revised power contract between the SPV and the power distributor, wherein the revised contract obligates the first entity to supply electricity and energy capacity to the power distributor, and obligates the power distributor to pay the SPV at specified periods, and wherein the revised power contract is a revised version of the original contract revised to provide that the first entity can supply electricity to the power distributor from sources other than the specified power facility;

issuing, by the SPV, interest-bearing debt instruments to investors, wherein proceeds from the issuance are used by the SPV to pay the original power supply entity for a transfer of the original power contract;

supplying electricity, by a power supplier, pursuant to a mirror power contract between the power supplier and the SPV, wherein the mirror power contract substantially matches the terms of the revised power contract with respect to at least (a) specified electricity and energy capacity to be delivered, and (b) penalties for breach, and wherein the price for the specified electricity and energy capacity in the mirror power contract is lower than in the revised power contract, and wherein the SPV passes on the supplied electricity to the power distributor;

receiving, by a computer system and for addition to a collections account that it maintains on behalf of the SPV, an electronic payment from the power distributor for at least one of the specified periods in the revised power contract, and wherein the computer system comprises a programmed processor and operatively associated memory;

transmitting, by the computer system and from the collections account, for the at least one of the specified periods, an electronic payment to the power supplier pursuant to the mirror power contract;

transmitting, by the computer system and from the collections account, payments on at least one of interest and principal for the debt instruments issued by the SPV;

funding a reserve account, maintained by the computer system, wherein the computer system is configured to make a transfer payment from the reserve account to the

collections account in the event of a collections account shortfall for paying at least one of interest and principal on the debt instruments, and to make a transfer payment from the collections account to the reserve account to replenish the reserve account to at least a reserve required balance; and

maintaining, by the computer system a damages and indemnity account, wherein the computer system is configured to, upon a damages, termination or indemnification condition, receive from the power supplier at least one of a damages, termination and indemnity amount, and to pay to the power distributor a corresponding amount.

Support for the amendments to claim 1 may be found throughout the application as originally filed. No new matter has been added.

In the Office Action, claim 1 has rejected under § 112, ¶ 2 as being indefinite for using the word “may.” As the word “may” has been deleted from claim 1, applicants submits that the § 112 rejections should be withdrawn.

The prior claims were also rejected under § 101 as being directed to non-patentable subject matter. Claim 1 is directed to a process (i.e., “A computer-implemented method of facilitating the monetization of an original power contract between an original power supply entity and a power distributor...”). As such, the claim is patent-eligible if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing. *See In re Bilski*, 545 F.3d 943, 954 88 USPQ2d 1385, 1391 (Fed. Cir. 2008) (*en banc*). Here, claim 1 is patent-eligible because it satisfies the “particular machine prong” because it recites a particular machine, namely a “computer system” that “comprises a programmed processor and operatively associated memory” that is critical to the claimed invention. The claimed “computer system” receives an electronic payment from the power distributor, transmits an electronic payment to the power supplier, transmits payments for the debt instruments issued by the SPV, maintains a reserve account, and maintains a damages and indemnity account. Each of these steps is critical to the solution of claim 1. Thus, the computer system is not used for insignificant extra-solution activity. Therefore, applicants submit that claim 1 satisfies § 101.

Regarding the § 103 rejections, the cited prior art (the background, Helms, Miller, and Dines) do not teach or suggest at least the following elements of claim 1:

- “funding a reserve account, maintained by the computer system, wherein the computer system is configured to make a transfer payment from the reserve account to the collections account in the event of a collections account shortfall for paying at least one of interest and principal on the debt instruments, and to make a transfer payment from the collections account to the reserve account to replenish the reserve account to at least a reserve required balance;” and
- “maintaining, by the computer system a damages and indemnity account, wherein the computer system is configured to, upon a damages, termination or indemnification condition, receive from the power supplier at least one of a damages, termination and indemnity amount, and to pay to the power distributor a corresponding amount.”

With regard to the “reserve account,” the cited prior art does not teach or suggest a compute system that is configured to “make a transfer payment from the collections account to the reserve account to replenish the reserve account to at least a reserve required balance.” Similarly, the cited prior art does not teach or suggest a computer system that “is configured to, upon a damages, termination or indemnification condition, receive from the power supplier at least one of a damages, termination and indemnity amount, and to pay to the power distributor a corresponding amount.” Because the structure of the prior art are different fundamentally from the structure of claim 1, they fail to teach or suggest these steps. Moreover, because of their inherent differences, it would be nonobvious to modify the prior art to arrive at the process of claim 1. For example, Miller uses liquidated damages to cover the risk of delay in completion of a construction project. These liquidated damages are the recoverable damages that a financier can recover from the contractor in the event of default. Liquidated damages are distinct from funding a reserve account and maintaining a damages and indemnity account, as per claim 1.

Therefore, applicants submit that claim 1 is not obvious in view of the cited references.

## **CONCLUSION**

Applicants respectfully submit that all of the claims presented in the present application are in condition for allowance. Applicants' present response should not in any way be taken as acquiescence to any of the specific assertions, statements, etc., presented in the Office Action not explicitly addressed herein. Applicants reserve the right to address specifically all such assertions and statements in subsequent responses. Applicants also reserve the right to seek claims of a broader or different scope in a continuation application.

Applicants do not concede the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to distinguish further the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

Applicants have made a diligent effort to properly respond to the Office Action and believe that the claims are in condition for allowance. If the Examiner has any remaining concerns, the Examiner is invited to contact the undersigned at the telephone number set forth below so that such concerns may be expeditiously addressed.

Respectfully submitted,



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